

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSFILED
2005 FEB 22 A 11:56
U.S. DISTRICT COURT
DISTRICT OF MASS.HOUSEHOLD FINANCE CORPORATION
Plaintiff,

VS.

TRACY A. KILEY A/K/A
TRACY KILEY ELLIOTT
Defendant

05 CV 10342 MLW

MAGISTRATE JUDGE Alexander

RECEIPT # 62262
AMOUNT \$250
SUMMONS ISSUED INTIA
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPTY. CLK JUN
DATE 2/22/05NOTICE OF REMOVAL

1. Pursuant to 28 U.S.C. § 1441(b), 1331, and 1446, the Plaintiff and Defendant in Counterclaim, Household Finance Corporation (“Household”) hereby remove to this Court the above-captioned state court civil action which is pending in the District Court Department of the Trial Court, Edgartown Division, Commonwealth of Massachusetts.
2. On or about February 9, 2005, the Defendant, Tracy A. Kiley a/k/a Tracy Kiley Elliott, (“Kiley”) filed a counterclaim (“Counterclaim”) in Civil Action, 0535CV0004 against Household Finance Corporation. The Counterclaim sets forth allegations under 15 U.S.C. § 1692, the Fair Debt Collection Practices Act. Kiley alleges that she informed Household of her intention to file bankruptcy and that the underlying obligation for which Civil Action 0535CV0004 is based, would be included in that

bankruptcy filing. Kiley alleges that Household violated 15 U.S.C. § 1692(c) in its attempt to collect the debt owed to Household.

3. This Court has original jurisdiction of the above-captioned action pursuant to 28 U.S.C. § 1331 as the claims asserted on the face of the Counterclaim present questions under federal law. To the extent the Counterclaim asserts any claim under state law, this court may exercise jurisdiction over those claims as well pursuant to 28 U.S.C. § 1337(a).
4. This Notice is filed with this Court within thirty (30) days after attempted service of the Counterclaim.

Plaintiff and Defendant in Counterclaim,
Household Finance Corporation
By their Attorneys,
Shechtman Halperin Savage, LLP,

Shawn M. Masterson, #658276
86 Weybosset Street
Providence, RI 02903
(401) 272-1400 phone
(401) 272-1403 fax

CERTIFICATE OF SERVICE

I certify that the within Notice of Removal was served upon the following *pro se* Defendant/Plaintiff in Counterclaim by first class mail, postage prepaid, on February 14, 2005:

Tracy A. Kiley a/k/a Tracy Kiley Elliott
108 West Tashmoo Avenue
Vineyard Haven, MA 02568

Shawn M. Masterson

COMMONWEALTH OF MASSACHUSETTS

DUKES, SS

DISTRICT COURT DEPARTMENT
OF THE TRIAL COURT
EDGARTOWN DIVISION
Civil Action No. 0535CV0004

HOUSEHOLD FINANCE CORPORATION,
Plaintiff

VS.

TRACY A KILEY A/K/A
TRACY KILEY ELLIOTT,
Defendant

**ANSWER TO COMPLAINT
COUNT I**

1. Agreed
2. Tracy A. Kiley ("Defendant") N/K/A Tracy Kiley Elliott is an individual residing at 108 West Tashmoo Ave, Vineyard Haven, Dukes County, Massachusetts.
3. Disagree

COUNT II

4. Disagree
5. Agreed
6. Agreed
7. Disagree
8. Disagree

COMMONWEALTH OF MASSACHUSETTS

DUKES, SS

DISTRICT COURT DEPARTMENT
OF THE TRIAL COURT
EDGARTOWN DIVISION
Civil Action No. 0535CV0004

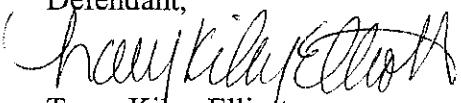
COUNTERCLAIM

1. Tracy Kiley Elliott ("Defendant") intends to file personal bankruptcy. Household Finance Corporation ("Plaintiff") has been informed that this debt will be included in the bankruptcy filing.
2. Plaintiff has violated the Mass. Gen Law Chapter 93A, 940 Code of Mass. Regs. 7.00 in an attempt to collect this debt.
3. Plaintiff has violated the Federal Law 15 USC 1692c in an attempt to collect this debt.

WHEREFORE, Defendant requests the following relief:

1. That the Court dismiss this Civil Action, as the case should be handled in the Massachusetts Bankruptcy Court; and
2. For such other relief as the Court may deem just and equitable.

Defendant,



Tracy Kiley Elliott
PO Box 2794
108 W. Tashmoo Ave.
Vineyard Haven, MA 02568
(508) 696-8702

Dated: February 4, 2005

COMMONWEALTH OF MASSACHUSETTS

DUKES, SS

DISTRICT COURT DEPARTMENT
OF THE TRIAL COURT
EDGARTOWN DIVISION
Civil Action No.:

HOUSEHOLD FINANCE CORPORATION,
Plaintiff

0535CV0004

VS.

TRACY A KILEY A/K/A
TRACY KILEY ELLIOTT,
Defendant

**COMPLAINT
COUNT I**

1. Household Finance Corporation, ("Plaintiff") is a business entity with a principal place of business at 841 Seahawk Circle, Virginia Beach, Virginia.
2. Tracy A Kiley ("Defendant") is an individual residing at 111 West Tashmoo Ave, Vineyard Haven, Dukes County, Massachusetts.
3. Defendant owes Plaintiff the sum of \$5,999.90 on account.

WHEREFORE, Plaintiff requests the following relief:

1. That the Court enter judgment against Defendant in the amount of \$5,999.90, plus interest and costs; and
2. For such other relief as the Court may deem just and equitable.

COUNT II

4. Plaintiff specifically incorporates herein the allegations contained in Paragraphs 1 and 2 of Count I hereof.

5. On or about June 16, 2003, the Defendant executed a promissory note in the principal amount of \$5,999.90 with interest at the rate therein-specified payable to the holder thereof (the "Note").

6. Plaintiff is the present holder of the Note.

7. Defendant has failed and refused to make payments as and when required, and is currently in default.

8. Defendant owes Plaintiff the principal sum of \$5,999.90, plus accrued interest at the rate of 23.00% since the date of default, which was on or about June 17, 2003 through April 13, 2004, in the amount of \$1,138.24, together with additional interest from and after December 22, 2004, cost of collection, and reasonable attorneys fees as provided in the Note.

WHEREFORE, Plaintiff requests the following relief:

1. That the Court enter judgment against Defendant in the amount of \$7,138.14, plus interest from and after December 22, 2004 at the rate of 12.000% per annum, plus costs and attorney's fees;
2. For such other relief as the Court may deem just and equitable.

Plaintiff,
By its attorneys,
Shechtman Halperin Savage, LLP

Shawn M. Masterson #658276
86 Weybosset Street
Providence, RI 02903
(401) 272-1400

Dated: December 22, 2004

PROBATE AND
SPECIAL
TRIBUNAL
OF
THE
COMMON
WEALTH
OF
MASSACHUSETTS

2005
12/22/04
101 9:30

COMMONWEALTH OF MASSACHUSETTS

DUKES, SS

DISTRICT COURT DEPARTMENT
OF THE TRIAL COURT
EDGARTOWN DIVISION
Civil Action No.:

HOUSEHOLD FINANCE CORPORATION,

Plaintiff

VS.

TRACY A KILEY A/K/A

TRACY KILEY ELLIOTT

Defendant

STATEMENT OF PARENT COMPANIES AND PUBLIC COMPANIES

Pursuant to the Supreme Judicial Court Rule of Corporate Disclosure Statement on Possible Judicial Conflicts of Interest, (SJC Rule 1:21), HOUSEHOLD FINANCE CORPORATION hereby lists as follows:

Parent Companies of the Plaintiff:

Household International

Publicly held Companies that own 10% or
more of the Plaintiff:

HSBC Hong Kong Sheng
Chid Bank Incorporated

PLAINTIFF,
By its attorneys,
Shechtman Halperin Savage, LLP

Shawn M. Masterson #658276
86 Weybosset Street
Providence, RI 02903
(401) 272-1400

Dated: December 22, 2004

PLAINTIFF(S)
HOUSEHOLD FINANCE CORPORATIONDEFENDANT(S)
TRACY A KILEY a/k/a
TRACY KILEY ELLIOTTINSTRUCTIONS: THIS FORM MUST BE COMPLETED AND FILED WITH THE
COMPLAINT OR OTHER INITIAL PLEADING IN ALL DISTRICT COURT
CIVIL ACTIONS SEEKING MONEY DAMAGES

EDGARTOWN DIVISION DISTRICT COURT

TORT CLAIMS

AMOUNT

A. Documented medical expenses to date:

1. Total Hospital expenses:
2. Total doctor expenses:
3. Total chiropractic expenses:
4. Total physical therapy expenses:
5. Total other expenses: (Describe):

SUBTOTAL:

\$ _____
\$ _____
\$ _____
\$ _____
\$ _____

\$ _____

B. Documented lost wages and compensation to date:

\$ _____

C. Documented property damages to date:

\$ _____

D. Reasonably anticipated future medical and hospital expenses:

\$ _____

E. Reasonably anticipated lost wages:

\$ _____

F. Other documented items of damage (Describe):

\$ _____

G. Brief description of Plaintiff's injury, including nature and extent of injury (Describe):

For this form, disregard double or treble damage claims; indicate single damages only. TOTAL:

CONTRACT CLAIMS

AMOUNT

Provide a detailed description of claim(s): CLAIM ON A DEFALTED PROMISSORY NOTE

\$ 7,138.14

\$ _____

\$ _____

For this form, disregard double or treble damage claims; indicate single damages only. TOTAL:

\$ 7,138.14

ATTORNEY FOR PLAINTIFF (OR PRO SE PLAINTIFF)

DEFENDANT'S NAME AND ADDRESS

12/22/2004

TRACY A KILEY a/k/a TRACY KILEY ELLIOTT

Shawn M. Masterson #658276

111 West Tashmoo Ave

86 Weybosset Street

Vineyard Haven, Massachusetts 02568

Providence, RI 02903

Circuit Court of The Commonwealth
District Courts of Massachusetts

DUKES

ss

HOUSEHOLD FINANCE CORPORATION

VS.

TRACY A KILEY A/K/A
TRACY KILEY ELLIOTTCivil Action No. 0535CV0004SUMMONS

(Rule 4)

To defendant Tracy A Kiley _____ of 111 West Tashmoo Ave, Vineyard Haven, MA
(name) _____ (address)

You are hereby summoned and required to serve upon Shawn M. Masterson, plaintiff's attorney, whose address is 86 Weybosset St. Providence, RI 02903, a copy of your answer to the complaint which is herewith served upon you, within 20 days after service of this summons, exclusive of the day of service. You are also required to file your answer to the complaint in the office of the Clerk of this court either before service upon plaintiff's attorney, or within 5 days thereafter. If you fail to meet the above requirements, judgment by default may be rendered against you for the relief demanded in the complaint. You need not appear personally in court to answer the complaint.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will be barred from making such claim in any other action.

BRIAN ROWE

WITNESS _____, Presiding Justice, on _____

(date)

(SEAL)



Clerk

Note: (1) When more than one defendant is involved, the names of all defendants should appear in the action. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
 (2) The number assigned to the complaint by the Clerk at commencement of the action should be affixed to this summons before it is served.

RETURN OF SERVICE

County of Dukes County, ss.

January 19, 2005

I hereby certify and return that I this day served an attested copy of the within Summons, together with a copy of the Complaint and Statement of Damages, in this action, upon the within named defendant, Tracy A. Kiley a/k/a Tracy Kiley Elliott, in the following manner: by delivering, in hand, to said defendant.

Fees:

service, in hand	30.00
travel/auto hire	7.65
attested copies	5.00
return & mailing	3.50
Total:	46.15


 Linda J. Hanover
 Deputy Sheriff
 County of Dukes County

(2) If service is made at the last and usual place of abode, the officer shall return with copy of the summons to such last and usual place of abode, and shall set forth in the return the date of mailing and the address to which the summons was sent (G.L. c. 223, sec. 31).

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Household Finance Corporation vs. Tracy A. Kiley
a/k/a Tracy Kiley Elliott

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT

II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

V. 150, 152, 153.

*Also complete AO 120 or AO 421
for patent, trademark or copyright cases

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO 7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES NO A. If yes, in which division do all of the non-governmental parties reside?Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Shawn M. Masterson, BBO #658276ADDRESS 86 Weybosset Street, Providence, RI 02903TELEPHONE NO. (877) 575-1400

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Household Finance Corporation

DEFENDANTS

Tracy A. Kiley a/k/a Tracy Kiley Elliott

(b) County of Residence of First Listed Plaintiff Virginia Beach, VA
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Shechtman Halperin Savage, LLP
86 Weybosset St., Providence RI 02903

Attorneys (If Known)

Pro se

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Other Civil Rights	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 863 DIWC/DIW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> REAL PROPERTY	<input type="checkbox"/> CIVIL RIGHTS	<input type="checkbox"/> PRISONER PETITIONS	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> FEDERAL TAX SUITS	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S. C. Section 1692Brief description of cause:
Breach of Contract/Def. alleges improper communication in debt collection

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMANDS Plaintiff \$7,138.14 plus
interest, costs and fees

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE